

## Carrying Concealed Deadly Weapons License Training



## LEGAL HANDOUT

**NOTE:** Boxes with numbers inside denote lines of text referred to in the legal video. 45

**Carrying Concealed Deadly Weapons License Training  
Applicant Course**

**LEGAL HANDOUT**

**KRS CHAPTER 237  
FIREARMS AND DESTRUCTIVE DEVICES  
(Selected Provisions)**

**KRS 237.020    Right of Kentucky residents to buy  
firearms in contiguous states –  
reciprocity as to residents of  
contiguous states**

- (1) Residents of the Commonwealth of Kentucky shall have the right to purchase rifles, shotguns, and any other firearms which they are permitted to purchase under federal law from properly licensed dealers, manufacturers, importers, or collectors located in states contiguous to the Commonwealth of Kentucky.
- (2) Residents of states contiguous to the Commonwealth of Kentucky may purchase rifles, shotguns, and any other firearms which they are permitted to purchase under federal law from properly licensed dealers, manufacturers, importers or collectors located in the Commonwealth of Kentucky.
- (3) All such sales shall conform to the requirements of federal law, the Kentucky Revised Statutes, applicable local ordinances, and the law of the purchaser's state.

**KRS 237.030    Definitions for KRS 237.040 and  
237.050**

- (1) **"Destructive device"** means any explosive, incendiary, or poison gas bomb, grenade, mine, rocket, missile, or similar device and includes the unassembled components from which such a device can be made.
- (2) **"Booby trap device"** includes any device, or substance designed to surreptitiously or covertly take life, endanger life or destroy or damage property and shall not include firearms.

**KRS 237.040    Criminal possession of destructive  
device or booby trap device**

**A person is guilty of criminal possession of a  
destructive device or a booby trap device when he  
possesses, manufactures, or transports such substance  
or device with:**

- (1) Intent to use that device to commit an offense against the laws of this state, a political subdivision thereof, or of the United States; or
- (2) Knowledge that some other person intends to use that device to commit an offense against the laws of

this state, a political subdivision thereof, or of the United States.

- (3) Mere possession without substantial evidence of the requisite intent is insufficient to bring action under KRS 237.030 to 237.050.

**KRS 237.050    Exemptions**

KRS 237.030 to 237.050 shall not apply to:

- (1) Destructive devices or booby trap devices which are possessed by the government of the United States, this state, or a political subdivision thereof;
- (2) Any device which is lawfully possessed under the Gun Control Act of 1968, the Organized Crime Control Act of 1971, or any other law of the United States or this state, unless a crime is committed therewith;
- (3) Nonlethal devices placed on the premises of the owner or the lawful occupant thereof for his own self-protection or the protection of the said property;
- (4) The setting of traps suitable and legal for the taking of game by persons licensed or permitted to do so by the game laws of the Commonwealth;
- (5) Inert devices which cannot readily be restored to operating condition; or
- (6) The acquisition, possession, use, or control of firearms.

**KRS 237.060    Definitions for KRS 237.060 to  
237.090 and certain other sections**

The following definitions apply in KRS 237.060 to 237.090 and KRS 197.170, 218A.992, 244.125, 244.990, and 514.110, unless the context otherwise requires:

- (1) **"Handgun"** means any pistol or revolver originally designed to be fired by the use of a single hand, or any other firearm originally designed to be fired by projectile by the action of an explosive.
- (2) **"Firearm"** means any weapon which will expel a projectile by the action of an explosive.
- (3) **"Licensed gun dealer"** means a person who has a federal firearms license and any business license required by a state or local government entity.
- (4) **"Loaded"** with respect to a firearm means:
  - (a) There is ammunition in the chamber of the firearm; or
  - (b) There is ammunition in the cylinder of the firearm; or

- (c) There is ammunition in the magazine of a firearm, if the magazine is attached to the firearm.
- (5) **"Juvenile"** means a person who has not attained his eighteenth birthday.
- (6) **"Ammunition"** means loaded ammunition designed for use in any firearm.
- (7) **"Armor-piercing ammunition"** means a projectile or projectile core which may be used in a handgun and which is constructed entirely (excluding the presence of traces of other substances) from one (1) or a combination of tungsten alloys, steel, iron, brass, bronze, beryllium copper, or depleted uranium. "Armor piercing ammunition" does not include shotgun shot required by federal or state environmental or game regulations for hunting purposes, a frangible projectile designed for target shooting, a projectile which the Secretary of the Treasury of the United States finds is primarily intended to be used for sporting purposes, or any other projectile or projectile core which the Secretary of the Treasury of the United States finds is intended to be used for industrial purposes, including a charge used in an oil and gas well perforating device.
- (8) **"Flanged ammunition"** means ammunition with a soft lead core and having sharp flanges which are designed to expand on impact.

**KRS 237.070 Prohibition against sale or transfer of firearm to convicted felon**

- (1) No person shall knowingly sell or transfer a firearm to any person prohibited from possessing it by KRS 527.040 [*Possession of a firearm by a convicted felon*].
- (2) Any person who violates the provisions of subsection (1) of this section is guilty of a Class A misdemeanor.
- (3) Any firearm transferred in violation of this section shall be subject to forfeiture and shall be disposed of pursuant to KRS 237.090.

**KRS 237.080 Prohibition against manufacture, sale, delivery, transfer, or importation of armor-piercing ammunition**

- (1) It shall be unlawful for any person to knowingly manufacture, sell, deliver, transfer, or import armor-piercing ammunition.
- (2) Subsection (1) of this section shall not apply to members of the Armed Forces of the United States or law enforcement officers within the scope of their duties, nor shall it prohibit licensed gun dealers from possessing armor-piercing ammunition for the purpose of receiving and transferring it to members of the Armed Forces of the United States, or law enforcement officers for use within the scope of their duties.

- (3) A violation of subsection (1) of this section shall be a Class D felony for the first offense and a Class C felony for each subsequent offense.
- (4) Any armor-piercing ammunition transferred, sold, or offered for sale, in violation of this section is contraband and shall be seized and summarily forfeited to the state and shall be disposed of pursuant to KRS 237.090.

**KRS 237.090 Disposition of forfeited firearm or ammunition**

Any firearm or ammunition forfeited pursuant to KRS 237.060 to 237.090 shall, upon order of a court of competent jurisdiction, be disposed of or retained as provided in KRS 500.090

**KRS 237.095 Persons barred by federal law from purchase of firearms – Duty to notify courts and law enforcement agencies of purchase or attempt to purchase – Protocol for providing notice – Duty to notify petitioner – Immunity from liability**

- (1) Upon receiving notice that a person barred from purchasing a firearm under 18 U.S.C. sec. 922(g)(8) has purchased or attempted to purchase a firearm, any agency with the responsibility of entering domestic violence records into the Law Information Network of Kentucky shall notify:
- (a) The court in the jurisdiction where the domestic violence order was issued under KRS 403.750; and
- (b) The law enforcement agencies, as designated by the Kentucky State Police, that have jurisdiction in the county where the domestic violence order was issued and in the county of the victim's residence if different from the county where the domestic violence order was issued.
- (2) The Kentucky State Police shall develop a protocol for providing notice to the required court and law enforcement agencies under subsection (1) of this section. Within the protocol, the Kentucky State Police shall designate which local law enforcement agencies are to receive notice in each county. A minimum of one (1) law enforcement agency shall be designated in each county.
- (3) When a designated law enforcement agency for the county where the domestic violence order was issued or where the victim resides receives notice under subsection (1)(b) of this section, that agency shall make reasonable efforts to ensure that the petitioner who obtained the domestic violence order is notified that the respondent has purchased or attempted to purchase a firearm.

- (4) Any person carrying out responsibilities under this section shall be immune from civil liability for good faith conduct in carrying out those responsibilities.
- (5) This section shall apply only to domestic violence orders issued, or reissued, on or after July 14, 2000, through July 15, 2002.

**KRS 237.100 Duty to notify petitioner of purchase or attempt to purchase firearm – Immunity from civil liability**

- (1) Upon receipt of notice that a person barred from purchasing a firearm under 18 U.S.C. sec. 922(g)(8) has purchased or attempted to purchase a firearm, the Justice Cabinet shall make a reasonable effort to provide notice to the petitioner who obtained the domestic violence order issued under KRS 403.750 that the respondent to the order has attempted to purchase a firearm. The Justice Cabinet may contract with a private entity in order to provide notification.
- (2) The notification shall be limited to a petitioner who has:
  - (a) Received a domestic violence protective order issued or reissued under KRS 403.750 on or after July 15, 2002;
  - (b) Received a domestic violence protective order that involves a respondent who is prohibited by 18 U.S.C. sec. 922(g)(8) from possessing a firearm; and
  - (c) Provided the Justice Cabinet or the entity with a request for notification.
- (3) Any person carrying out responsibilities under this section shall be immune from civil liability for good faith conduct in carrying out those responsibilities. Nothing in this subsection shall limit liability for negligence.

**KRS 237.110 License to carry concealed deadly weapons**

- (1) The Department of State Police is authorized to issue licenses to carry concealed firearms or other deadly weapons to persons qualified as provided in this section. The Department of State Police or the Administrative Office of the Courts shall conduct a record check, covering all offenses and conditions which are required under 18 U.S.C. sec. 922(g) and this section, in the manner provided by 18 U.S.C. sec. 922(s). Licenses shall be valid throughout the state for a period of five (5) years from the date of issuance. Any person in compliance with the terms of the license may carry a concealed firearm or other deadly weapon or combination of firearms and other deadly weapons on or about his person.

The licensee shall carry the license at all times the licensee is carrying a concealed firearm or other deadly weapon and shall display the license upon request of a law enforcement officer. Violation of the provisions of this subsection shall constitute a noncriminal violation with a penalty of twenty-five dollars (\$25), payable to the clerk of the District Court.

- (2) The Department of State Police shall issue a license if the applicant:
  - (a) Is a resident of the state and has been a resident for six (6) months or longer immediately preceding the filing of the application;
  - (b) Is twenty-one (21) years of age or older;
  - (c) Is not ineligible to possess a firearm pursuant to 18 U.S.C. sec. 922(d)(1) or (g) or KRS 527.040 ;
  - (d) Has not been committed to a state or federal facility for the abuse of a controlled substance or been convicted of a misdemeanor violation of KRS Chapter 218A [*controlled substance offenses*] or similar laws of any other state relating to controlled substances within a three (3) year period immediately preceding the date on which the application is submitted;
  - (e) Does not chronically and habitually use alcoholic beverages as evidenced by the applicant having two (2) or more convictions for violating KRS 189A.010 [*DUI involving a motor vehicle*] within the three (3) years immediately preceding his application or if the applicant has been committed as an alcoholic pursuant to KRS Chapter 222, or similar laws of any other state, within the three (3) year period immediately preceding the date on which the application is submitted;
  - (f) Demonstrates competence with a firearm by completion of a firearms safety or training course or class offered or approved by the Department of Criminal Justice Training. Classes presented pursuant to this paragraph shall include instruction on handguns, the safe use of handguns, the care and cleaning of handguns, handgun marksmanship principles, and actual range firing of a handgun in a safe manner. Classes presented pursuant to this paragraph shall include information on laws relating to firearms as described in KRS Chapters 237 and 527 and the law of the use of force as described in KRS Chapter 503. The Department of Criminal Justice Training shall promulgate uniform administrative regulations concerning the certification and decertification of all firearms instructors practicing in the Commonwealth of Kentucky. Notwithstanding any other provision of the Kentucky Revised Statutes, no person shall qualify as having

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demonstrated competence with a firearm pursuant to this subsection, unless certified by a governmental agency of the Commonwealth of Kentucky, or of the federal government. The Administrative Office of the Courts shall publish and make available, at no cost, information in a manner suitable for distribution to class participants. A legible photocopy of a certificate of completion of any of the courses or classes or a notarized affidavit from the instructor, school, club, organization, or group that conducts or teaches the course or class attesting to the completion of the course or class by the applicant shall constitute evidence of qualification under this paragraph. Peace officers who are currently certified as peace officers by the Kentucky Law Enforcement Council pursuant to KRS 15.380 to 15.404 and peace officers who are retired and are members of the Kentucky Employees Retirement System, State Police Retirement System, or County Employees Retirement System or other retirement system operated by or for a city, county, or urban-county in Kentucky shall be deemed to have met the training requirement;

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- (g) Has not been adjudicated an incompetent under KRS Chapter 202B or has waited three (3) years from the date his competency was restored by the court order under KRS Chapter 202B; and
  - (h) Has not been involuntarily committed to a mental institution pursuant to KRS Chapter 202A, unless he possesses a certificate from a psychiatrist licensed in this state that he has not suffered from disability for a period of three (3) years.
- (3) The Department of State Police may deny a license if the applicant has been found guilty of a violation of KRS 508.030 [*Assault in the fourth degree*] or 508.080 [*Terroristic threatening in the third degree*] within the three (3) year period prior to the date on which the application is submitted or may revoke a license if the licensee has been found guilty of a violation of KRS 508.030 or 508.080 within the preceding three (3) years.
- (4) The Department of State Police shall deny, suspend, or revoke a license to carry a concealed deadly weapon upon written notice by the Cabinet for Families and Children that the person has a child support arrearage which equals or exceeds the cumulative amount which would be owed after one (1) year of nonpayment, or for failure, after receiving appropriate notice, to comply with a subpoena or warrant relating to paternity or child support proceedings.
- (5) The application for a permit, or renewal of a permit, to carry a concealed deadly weapon shall be

obtained from the office of the sheriff in the county in which the person resides. The completed application and all accompanying material plus an application fee or renewal fee, as appropriate, of sixty dollars (\$60) shall be presented to the office of the sheriff of the county in which the applicant resides. A full or part time peace officer who is currently certified as a peace officer by the Kentucky Law Enforcement Council who is authorized by his or her employer or government authority to carry a concealed deadly weapon at all times and all locations within the Commonwealth pursuant to KRS 527.020 or a retired peace officer who is a member of the Kentucky Employees Retirement System, State Police Retirement System, County Employees Retirement System, or other retirement system operated by or for a city, county, or urban-county in Kentucky shall be exempt from paying the application or renewal fees. The sheriff shall transmit the application and accompanying material to the Department of State Police within five (5) working days. Twenty dollars (\$20) of the application fee shall be retained by the office of the sheriff for official expenses of the office. Twenty dollars (\$20) shall be sent to the Department of State Police with the application. Ten dollars (\$10) shall be transmitted by the sheriff to the Administrative Office of the Courts to fund background checks for youth leaders, and ten dollars (\$10) shall be transmitted to the Administrative Office of the Courts to fund background checks for applicants for concealed weapons. The application shall be completed, under oath, on a form promulgated by the Department of State Police by administrative regulation which shall only include:

- (a) The name, address, place and date of birth, gender, and Social Security number of the applicant;
- (b) A statement that, to the best of his knowledge, the applicant is in compliance with criteria contained within subsections (2) and (3);
- (c) A statement that the applicant has been furnished a copy of this section and is knowledgeable about its provisions;
- (d) A statement that the applicant has been furnished a copy of, has read, and understands KRS Chapter 503 as it pertains to the use of deadly force for self defense in Kentucky; and
- (e) A conspicuous warning that the application is executed under oath and that a materially false answer to any question, or the submission of any materially false document by the applicant, subjects the applicant to criminal prosecution under KRS 523.030 [*Perjury in the second degree*].

- (6) The applicant, if a resident of the Commonwealth, shall submit to the sheriff of the applicant's county of residence:
  - (a) A completed application as described in subsection (4) of this section;
  - (b) A recent color photograph of the applicant, as prescribed by administrative regulation; and
  - (c) A photocopy of a certificate or an affidavit or document as described in subsection (2)(f).
- (7) The Department of State Police shall, within ninety (90) days after the date of receipt of the items listed in subsection (5) of this section, either:
  - (a) Issue the license; or
  - (b) Deny the application based solely on the grounds that the applicant fails to qualify under the criteria listed in subsection (2) or (3) of this section. If the Department of State Police denies the application, it shall notify the applicant in writing, stating the grounds for denial and informing the applicant of a right to submit, within thirty (30) days, any additional documentation relating to the grounds of denial. Upon receiving any additional documentation, the Department of State Police shall reconsider its decision and inform the applicant within twenty (20) days of the result of the reconsideration. The applicant shall further be informed of the right to seek de novo review of the denial in the District Court of his place of residence within ninety (90) days from the date of the letter advising the applicant of the denial.
- (8) The Department of State Police shall maintain an automated listing of license holders and pertinent information, and this information shall be available on-line, upon request, at all times to all Kentucky law enforcement agencies. Except as provided in this subsection, information on applications for licenses, names and addresses, or other identifying information relating to license holders shall be confidential and shall not be made available except to law enforcement agencies. Requests for information to be provided to any requester other than a bona fide law enforcement agency which has direct access to the Law Enforcement Information Network of Kentucky shall be made, in writing, directly to the commissioner of the Department of State Police together with the fee required for the providing of the information. The Department of State Police shall, upon proper application and the payment of the required fee, provide to the requester in hard copy form only, a list of names of all holders in the Commonwealth of a license to carry a concealed deadly weapon. No identifying information other than the name shall be provided, and information for geographic areas or other subdivisions of any type from the list shall not be provided and shall be confidential. The fee to be charged shall be the same as for other public records provided by the Department of State Police. No request for lists of local or statewide permit holders shall be made to any state or local law enforcement agency, peace officer, or other agency of government other than the Department of State Police, and no state or local law enforcement agency, peace officer, or agency of government, other than the Department of State Police, shall provide any information not entitled to it by law. The names of all persons, other than law enforcement agencies and peace officers, requesting information under this section shall be a public record.
- (9) Within thirty (30) days after the changing of a permanent address, or within thirty (30) days after the loss or destruction of a license, the licensee shall notify the Department of State Police of the loss or destruction. Failure to notify the Department of State Police shall constitute a noncriminal violation with a penalty of twenty-five dollars (\$25) payable to the clerk of the district court. When a licensee makes application to change his or residence address or other information on the license, neither the sheriff nor the Department of State Police shall require a surrender of the license until a new license is in the office of the applicable sheriff and available for issuance. Upon the issuance of a new license, the old license shall be destroyed by the sheriff.
- (10) If a license is lost or destroyed, the license shall be automatically invalid, and the person to whom the same was issued may, upon payment of fifteen dollars (\$15) to the Department of State Police, obtain a duplicate, upon furnishing a notarized statement to the Department of State Police that the license has been lost or destroyed.
- (11) A license issued under this section shall be suspended or revoked if the licensee becomes ineligible to be issued a license under the criteria set forth in subsection (2)(a), (c), (d), (e), (f), or (h) of this section. When a domestic violence order or emergency protective order is issued pursuant to the provisions of KRS Chapter 403 against a person holding a license issued under this section, the holder of the permit shall surrender the license to the court or to the officer serving the order. The officer to whom the license is surrendered shall forthwith transmit the license to the court issuing the order. The license shall be suspended until the order is terminated, or until the judge who issued the order terminates the suspension prior to the termination of the underlying domestic violence order or emergency protective order, in writing and by return of the license, upon proper motion by the license holder. Subject to the same conditions as above, a peace officer against whom an emergency protective order or domestic violence order has been issued shall not be permitted to carry a concealed deadly weapon when not on duty, the provisions of KRS 527.020 [*Carrying a concealed deadly weapon*] to the contrary notwithstanding.

(12) Not less than ninety (90) days prior to the expiration date of the license, the Department of State Police shall mail to each licensee a written notice of the expiration and a renewal form prescribed by the Department of State Police. The licensee may renew his license on or before the expiration date by filing with the sheriff of his county of residence the renewal form, a notarized affidavit stating that the licensee remains qualified pursuant to the criteria specified in subsections (2) and (3) of this section, and the required renewal fee. The license shall be renewed to a qualified applicant upon receipt of the completed renewal application and appropriate payment of fees. When a licensee makes application for a renewal of his or her license, neither the sheriff nor the Department of State Police shall require a surrender of the license until the new license is in the office of the applicable sheriff and available for issuance. Upon the issuance of a new license, the old license shall be destroyed by the sheriff. A licensee who fails to file a renewal application on or before its expiration date may renew his license by paying, in addition to the license fees, a late fee of fifteen dollars (\$15). No license shall be renewed six (6) months or more after its expiration date, and the license shall be deemed to be permanently expired six (6) months after its expiration date. A person whose license has permanently expired may reapply for licensure pursuant to subsections (4), (5), and (6) of this section.

(13) No license issued pursuant to this section shall authorize any person to carry a concealed firearm into:

- (a) Any police station or sheriff's office;
- (b) Any detention facility, prison, or jail;
- (c) Any courthouse, solely occupied by the Court of Justice courtroom, or court proceeding;
- (d) Any meeting of the governing body of a county, municipality, or special district; or any meeting of the General Assembly or a committee of the General Assembly, except that nothing in this section shall preclude a member of the body, holding a concealed deadly weapon license, from carrying a concealed deadly weapon at a meeting of the body of which he is a member;
- (e) Any portion of an establishment licensed to dispense beer or alcoholic beverages for consumption on the premises, which portion of the establishment is primarily devoted to that purpose;
- (f) Any elementary or secondary school facility without the consent of school authorities as provided in KRS 527.070, any child-caring facility as defined in KRS 199.011, any day-care center as defined in KRS 199.894, or any certified family child-care home as defined in KRS 199.8982, except however, any owner of a

certified child-care home may carry a concealed firearm into the owner's residence used as a certified child-care home;

- (g) An area of an airport to which access is controlled by the inspection of persons and property; or
- (h) Any place where the carrying of firearms is prohibited by federal law.

(14) The owner, business or commercial lessee, or manager of a private business enterprise, day-care center as defined in KRS 199.894 or certified or licensed family child-care home as defined in KRS 199.8982, or a health-care facility licensed under KRS Chapter 216B, except facilities renting or leasing housing, may prohibit persons holding concealed deadly weapon licenses from carrying concealed deadly weapons on the premises and may prohibit employees, not authorized by the employer, holding concealed deadly weapons licenses from carrying concealed deadly weapons on the property of the employer. If the building or the premises are open to the public, the employer or business enterprise shall post signs on or about the premises if carrying concealed weapons is prohibited. Possession of weapons, or ammunition, or both in a vehicle on the premises shall not be a criminal offense so long as the weapons, or ammunition, or both are not removed from the vehicle or brandished while the vehicle is on the premises. A private but not a public employer may prohibit employees or other persons holding a concealed deadly weapons license from carrying concealed deadly weapons, or ammunition, or both in vehicles owned by the employer, but may not prohibit employees or other persons holding a concealed deadly weapons license from carrying concealed deadly weapons, or ammunition, or both in vehicles owned by the employee, except that the Justice Cabinet may prohibit an employee from carrying any weapons, or ammunition, or both other than the weapons, or ammunition, or both issued or authorized to be used by the employee of the cabinet, in a vehicle while transporting persons under the employee's supervision or jurisdiction. Carrying of a concealed weapon, or ammunition, or both in a location specified in this subsection by a license holder shall not be a criminal act but may subject the person to denial from the premises or removal from the premises, and, if an employee of an employer, disciplinary measures by the employer.



- (15) All moneys collected by the Department of State Police pursuant to this section shall be used to administer the provisions of this section. By March 1 of each year, the Department of State Police and the Administrative Office of the Courts shall submit reports to the Governor, the President of the Senate, and the Speaker of the House of Representatives, indicating the amounts of money collected and the expenditures related to Sections 1 to 6 of this Act and the administration of the provisions of Sections 1 to 6 of this Act.
- (16) The General Assembly finds as a matter of public policy that it is necessary to provide statewide uniform standards for issuing licenses to carry concealed firearms and to occupy the field of regulation of the bearing of concealed firearms to ensure that no person who qualifies under the provisions of this section is denied his rights. The General Assembly does not delegate to the Department of State Police the authority to regulate or restrict the issuing of licenses provided for in this section beyond those provisions contained in this section. This section shall be liberally construed to carry out the constitutional right to bear arms for self-defense.
- (17)(a) A person who has a valid license issued by another state of the United States to carry a concealed deadly weapon in that state may, subject to the provisions of Kentucky law, carry a concealed deadly weapon in Kentucky, and his license shall be considered as valid in Kentucky.
- (b) The Department of State Police shall, not later than thirty (30) days after July 15, 1998, and not less than once every six (6) months thereafter, make written inquiry of the concealed deadly weapon carrying licensing authorities in each other state as to whether a Kentucky resident may carry a concealed deadly weapon in their state based upon having a valid Kentucky concealed deadly weapon license, or whether a Kentucky resident may apply for a concealed deadly weapon carrying license in that state based upon having a valid Kentucky concealed deadly weapon license. The Department of State Police shall attempt to secure from each other state permission for Kentucky residents who hold a valid Kentucky concealed deadly weapon license to carry concealed deadly weapons in that state, either on the basis of the Kentucky license or on the basis that the Kentucky license is sufficient to permit the issuance of a similar license by the other state. The Department of State Police shall enter into a written reciprocity agreement with the appropriate agency in each state that agrees to permit Kentucky residents to carry concealed deadly weapons in the other state on the basis of a Kentucky-issued concealed deadly weapon license or that will issue a license to carry concealed deadly weapons in the other state based upon a Kentucky concealed deadly weapon license. If a reciprocity agreement is reached, the requirement to recontact the other state each six (6) months shall be eliminated as long as the reciprocity agreement is in force. The information shall be a public record and shall be available to individual requesters free of charge for the first copy and at the normal rate for open records requests for additional copies.
- (18) By March 1 of each year, the Department of State Police shall submit a statistical report to the Governor, the President of the Senate, and the Speaker of the House of Representatives, indicating the number of licenses issued, revoked, suspended, and denied since the previous report and in total and also the number of licenses currently valid. The report shall also include the number of arrests, convictions, and types of crimes committed since the previous report by individuals licensed to carry concealed weapons.
- (19) The following provisions shall apply to concealed deadly weapon training classes conducted by the Department of Criminal Justice Training or any other agency pursuant to Section 2 of this Act:
- (a) No concealed deadly weapon instructor trainer shall have his or her certification as a concealed deadly weapon instructor trainer reduced to that of instructor or revoked except after a hearing conducted pursuant to KRS Chapter 13B in which the instructor is found to have committed an act in violation of the applicable statutes or administrative regulations;
  - (b) No concealed deadly weapon instructor shall have his or her certification as a concealed deadly weapon instructor license suspended or revoked except after a hearing conducted pursuant to KRS Chapter 13B in which the instructor is found to have committed an act in violation of the applicable statutes or administrative regulations;
  - (c) The department shall not require prior notification that an applicant class or instructor class will be conducted by a certified instructor or instructor trainer;
  - (d) Each concealed deadly weapon instructor or instructor trainer who teaches a concealed deadly weapon applicant or concealed deadly weapon instructor class shall supply the Department of



Criminal Justice training with a class roster indicating which students enrolled but did not successfully complete the class, and which students enrolled and successfully completed the class which contains the name and address of each student, within five (5) working days of the completion of the class. The information may be sent by mail, facsimile, E-mail, or other method which will result in the receipt of or production of a hard copy of the information. The postmark, facsimile date, or E-mail date shall be considered as the date on which the notice was sent;

- (e) An instructor trainer who assists in the conduct of a concealed deadly weapon instructor class or concealed deadly weapon applicant class for more than two (2) hours shall be considered as to have taught a class for the purpose of maintaining his or her certification. All class record forms shall include spaces for assistant instructors to sign and certify that they have assisted in the conduct of a concealed deadly weapon instructor or concealed deadly weapon class;
- (f) An instructor who assists in the conduct of a concealed deadly weapon applicant class for more than two (2) hours shall be considered as to have taught a class for the purpose of maintaining his or her license. All class record forms shall include spaces for assistant instructors to sign and certify that they have assisted in the conduct of a concealed deadly weapon class;
- (g) If the Department of Criminal Justice Training believes that a firearms instructor trainer or certified firearms instructor has not in fact complied with the requirements for teaching a certified firearms instructor or applicant class by not teaching the class as specified in Section 6 of this Act, or who has taught an insufficient class as specified in Section 7 of this Act, the department shall send to each person who has been listed as successfully completing the concealed deadly weapon applicant class or concealed deadly weapon instructor class a verification form on which the time, date, date of range firing if different from the date on which the class was conducted, location, and instructor of the class is listed by the department and which requires the person to answer "yes" or "no" to specific questions regarding the conduct of the training class. The form shall be completed under oath and shall be returned to the Department of Criminal Justice Training not later than thirty (30) days after its receipt. Failure to complete the form, to sign the form, or to return the form to the Department of Criminal Justice training within the time frame specified in this section or who, as a result of information

on the returned form, is determined by the Department of Criminal Justice Training following a hearing pursuant to KRS Chapter 13B to not have received the training required by law shall be grounds for the Department of State Police to revoke the person's concealed deadly weapon license following a hearing conducted pursuant to KRS Chapter 13B at which hearing the person is found to have violated the provisions of this section or who has been found not to have received the training required by law;

- (h) The department shall randomly inspect certified firearms instructor classes being conducted by firearms instructor trainers and shall randomly inspect applicant classes being conducted by firearms instructor trainers or certified firearms instructors to ascertain if the class is being conducted in conformity to the provisions of applicable statutes and administrative regulations and that the paperwork in the class matches the paperwork ultimately submitted by the firearms instructor trainer or certified firearms instructor for that same class. The department shall annually, not later than December 31 of each year, report to the Legislative Research Commission:

1. The number of random inspections;
2. The results of those inspections;
3. The number of deficiencies noted;
4. The nature of the deficiencies noted;
5. If a deficiency was noted, the categories of action taken by the department to either correct the deficiency or discipline the instructor, or a combination thereof;
6. The number of firearms instructor trainers and certified firearms instructors whose certifications were suspended, revoked, denied, or who were otherwise disciplined;
7. The reasons for the imposition of suspensions, revocations, denials, or other discipline; and
8. Suggestions for improvement of the concealed deadly weapon applicant training program and instructor process.

- (i) If a concealed deadly weapon license holder is convicted of, pleads guilty to, or enters an Alford plea to a felony offense, then his or her concealed deadly weapon license shall be forthwith revoked by the Department of State Police as a matter of law;
- (j) If a concealed deadly weapon instructor or instructor trainer is convicted of, pleads guilty to, or enters an Alford plea to a felony offense, then his or her concealed deadly weapon instructor certification or concealed deadly weapon instructor trainer certification shall be revoked by the Department of Criminal Justice Training as a matter of law; and
- (k) The provisions of this section shall be deemed to be retroactive to March 1, 2002 and the following shall be in effect:
  - 1. Action to eliminate the firearms instructor trainer program as done by emergency administrative regulation is rescinded, the program shall remain in effect, and no firearms instructor trainer shall have his or her certification reduced to that of certified firearms instructor.
  - 2. The Kentucky State Police may revoke the concealed deadly weapon license of any person who received no firearms training as required by KRS 237.126 and administrative regulations or who received insufficient training as required by KRS 237.128 and administrative regulations if the person voluntarily admits nonreceipt of training or admits receipt of insufficient training, or if either nonreceipt of training or receipt of training is proven following a hearing conducted pursuant to KRS Chapter 13B. Any action taken by the Kentucky State Police, other than revoking a permit for voluntary admission of nonreceipt of training or receipt of insufficient training to revoke a concealed deadly weapon license of a person suspected of nonreceipt of training or receipt of insufficient training, between March 1, 2002 and July 15, 2002 is suspended until the conduct of a KRS Chapter 13B hearing after July 15, 2002.
  - 3. Any person who has received a training affidavit requiring the person to verify training conducted during a firearms instructor course or applicant course from the Department of Criminal Justice Training between March 1, 2002 and July 15, 2002, shall have the time to respond to the training affidavit extended to August 1, 2002. The department shall notify each person who has not, as of July 15, 2002, returned his or her training affidavit of the extension of time to file the affidavit.

**KRS 237.115      Carrying concealed deadly weapons -  
- prohibition by colleges,  
governments**

- (1) Nothing contained in KRS 237.110 shall be construed to limit, restrict, or prohibit in any manner the right of a college, university, or any postsecondary education facility, including technical schools and community colleges, to control the possession of deadly weapons on any property owned or controlled by them or the right of a unit of state, city, county, urban-county, or charter county government to prohibit the carrying of concealed deadly weapons by licensees in the portion of a building actually owned, leased, or occupied by that unit of government.
- (2) The legislative body of a state, city, county, or urban-county government may, by statute, administrative regulation, or ordinance, prohibit or limit the carrying of concealed deadly weapons by licensees in that portion of a building owned, leased, or controlled by that unit of government. That portion of a building in which the carrying of concealed deadly weapons is prohibited or limited shall be clearly identified by signs posted at the entrance to the restricted area. The statute or ordinance shall exempt any building used for public housing by private persons, highway rest areas, firing ranges, and private dwellings owned, leased or controlled by that unit of government from any restriction on the carrying or possession of deadly weapons. The statute, administrative regulation, or ordinance shall not specify any criminal penalty for its violation but may specify that persons violating the statute or ordinance may be denied entrance to the building, ordered to leave the building, and if employees of the unit of government, be subject to employee disciplinary measures for violation of the provisions of the statute or ordinance. The provisions of this section shall not be deemed to be a violation of KRS 65.870 if the requirements of this section are followed. The provisions of this section shall not apply to any other unit of government.
- (3) Unless otherwise specifically provided by the Kentucky Revised Statutes or applicable federal law, no criminal penalty shall attach to carrying a concealed firearm or other deadly weapon with a permit at any location at which an unconcealed firearm or other deadly weapon may be constitutionally carried.

**KRS 237.120 Department of Criminal Justice Training to operate and maintain program for firearms instructor trainers**

- (1) The Department of Criminal Justice Training shall operate and maintain a program for firearms instructor trainers for the concealed deadly weapon training program. Only the General Assembly may eliminate the firearms instructor trainer program.
- (2) A firearms instructor trainer shall meet the requirements to be a firearms instructor and shall:
  - (a) Possess a high school diploma or GED certificate; and
  - (b) Successfully complete a firearms instructor trainer course of not more than sixteen (16) hours provided by the department; and
  - (c) Possess at least one (1) of the following valid firearms instructor certifications:
    1. National Rifle Association Personal Protection Instructor;
    2. National Rifle Association Pistol Marksmanship Instructor;
    3. Certification from a Kentucky or other firearms instructor course offered by a state or federal governmental agency; or
    4. Certification from another firearms instructor training course that has been determined by the Commissioner of the Department of Criminal Justice Training to be equivalent to one (1) of the above listed courses.
- (3) Certification as a firearms instructor trainer shall be valid for a period of three (3) years during which an instructor trainer shall:
  - (a) Conduct or assist in at least one (1) firearms instructor course; or
  - (b) Conduct or assist in at least one (1) applicant training course; and
  - (c) Attend an instructor trainer/instructor in-service training course of not more than four (4) hours conducted by the department; and
  - (d) Not have become ineligible to be a firearms instructor trainer.
- (4) The department shall conduct in-service training for firearms instructor trainers and certified firearms instructors. In-service training courses shall be held not less than twice each year in each Congressional District and shall be offered at various times during the year ensuring that the maximum number of persons can attend. Preference shall be given to conducting in-service training classes on a Friday or a Saturday. Notice of the time, date, and location for in-service training for each calendar year shall be sent to each firearms instructor trainer and certified firearms instructor by mail or by e-mail not less than thirty (30) days prior to the beginning of the first class for each calendar year. The cost of the in-service training shall be not more than fifty dollars

(\$50).

- (5) At the end of the certification period the department shall issue a new firearms instructor trainer certification to a person who has completed the provisions of this section unless that firearms instructor trainer notifies the department in writing that he or she desires not to be recertified or is otherwise ineligible to be recertified. There shall be no charge for recertification.
- (6) The fee for a firearms instructor trainer course shall be not more than one hundred dollars (\$100). No portion of the fee shall be refunded to any student who fails or who does not complete the required course of training.
- (7) Any state agency or public university which owns a firing range shall make that range available to the department for the conduct of in-service training without charge if the department determines that for any particular year's in-service training that range firing is required.

**KRS 237.122 Department of Criminal Justice Training to operate and maintain program for certification of firearms instructors**

- (1) The Department of Criminal Justice Training shall operate and maintain a program for certification of firearms instructors for the concealed deadly weapon training program. Only the General Assembly may eliminate the certified firearms instructor program.
- (2) Training courses for certification of firearms instructors shall be conducted by firearms instructor trainers and the department.
- (3) An applicant to be a firearms instructor shall be a citizen of the United States, hold a concealed deadly weapon license issued pursuant to KRS 237.110, and successfully complete a firearms instructor training course of not more than sixteen (16) hours provided by a certified firearms instructor trainer.
- (4) Certification as a firearms instructor shall be valid for a period of three (3) years during which an instructor shall:
  - (a) Conduct or assist in at least one (1) applicant training course;
  - (b) Attend an instructor trainer/instructor in-service training course of not more than four (4) hours conducted by the department; and
  - (c) Not have become ineligible to be a firearms instructor.
- (5) The department shall conduct in-service training for firearms instructor trainers and certified firearms instructors as specified in KRS 237.120.
- (6) At the end of the certification period the department shall issue a new firearms instructor certification to

any person who has completed the provisions of this section unless the firearms instructor notifies the department in writing that he or she desires not to be recertified or is otherwise ineligible to be recertified. There shall be no charge for recertification.

- (7) An instructor trainer shall charge a fee not to exceed one hundred dollars (\$100) for a training course for a certified firearms instructor. The instructor shall remit fifty dollars (\$50) to the department to defray the cost of materials which the department shall provide to the instructor.
- (8) No firearms instructor trainer or certified firearms instructor shall charge a fee in excess of seventy-five dollars (\$75) for the conduct of an applicant training course. An instructor trainer or certified firearms instructor may charge a student the actual cost of range use, targets and associated range materials, and classroom rental not to exceed ten dollars (\$10) for all of the items specified in this subsection. The instructor trainer or certified firearms instructor shall remit twenty-five dollars (\$25) to the department to cover the provision of training materials distributed and providing evidence of successful completion of the course.
- (9) No portion of a fee collected pursuant to this section shall be refunded to a student who fails or does not complete the required course of instruction.

**KRS 237.124 Department of Criminal Justice Training to operate program for training applicants**

- (1) The Department of Criminal Justice Training shall operate a program for the training of applicants for a concealed deadly weapon license. Only the General Assembly may eliminate the training program for applicants for a concealed deadly weapon license.
- (2) Training pursuant to this section shall be conducted by a firearms instructor trainer or certified firearms instructor in accordance with the provisions of this chapter and administrative regulations promulgated thereunder.

**KRS 237.126 Not providing firearms training – Penalty**

- (1) A firearms instructor trainer or certified firearms instructor is guilty of not providing firearms training if he or she represents to the department that he or she has conducted training for a student firearms instructor or for an applicant in an applicant training course and has not, in fact, provided any such training.
- (2) Not providing firearms training is a Class D felony.

**KRS 237.128 Providing incomplete firearms training – Penalty**

- (1) A firearms instructor trainer or firearms instructor is guilty of providing incomplete firearms training if he or she represents to the department that he or she has conducted training for a student firearms instructor or for an applicant in an applicant training course and has not, in fact, provided lecture instruction, showed a required visual aid, conducted hands-on firearm safety and cleaning training, provided range instruction and range firing, or has permitted a student to qualify on a target on which the student has not achieved the marksmanship required by administrative regulation.
- (2) Providing incomplete firearms training is a Class D felony.

**KRS 237.130 Failure to report nonreceipt of firearms training – Penalty**

- (1) A person is guilty of failure to report nonreceipt of firearms training when he or she receives certification that he or she has successfully completed a firearms instructor trainer, certified firearms instructor, or applicant training course and has not, in fact, received any such training and has not reported the matter in writing to the sheriff, Commonwealth's attorney or county attorney serving the county in which the training was conducted or has not made a written report to the Kentucky State Police and provided a copy of the certification documents to the agency reported to along with the report. The report shall be made not more than thirty (30) working days after receiving documentation of successful completion of training, unless a request for additional time has been made and has been granted by an officer or agency to which the report shall be made.
- (2) Failure to report nonreceipt of firearms training is a Class A misdemeanor.
- (3) A person who makes a report pursuant to this section within the time frame specified in subsection (1) of this section shall not be prosecuted for a violation of this section and shall be eligible to reenroll in the level of class for which they were originally enrolled.

**KRS 237.132 Failure to report insufficient firearms training – Penalty**

- (1) A person is guilty of failure to report insufficient firearms training when he or she receives certification that he or she has successfully completed a firearms instructor trainer, certified firearms instructor, or applicant training course and has not, in fact received lecture instruction, the showing of a required visual

aid, hands-on firearm safety and cleaning training, range instruction and range firing, or has not successfully completed the marksmanship requirement during range firing and has not reported the matter in writing to the sheriff, Commonwealth's attorney, or county attorney serving the county in which the training was conducted or has not made a written report to the Kentucky State Police and provided a copy of the certification documents to the agency reported to along with the report. The report shall be made not more than thirty (30) working days after receiving documentation of successful completion of training, unless additional time is requested and has been granted by an officer or agency to which a report shall be made.

- (2) Failure to report insufficient firearms training is a Class A misdemeanor.
- (3) A person who makes a report pursuant to this section within the time frame specified in subsection (1) of this section shall not be prosecuted for a violation of this section and shall be eligible to reenroll in the level of class for which the person was originally enrolled.

**KRS 237.134 Notification to State Police, Commonwealth's attorney or county attorney and investigation upon receipt of report of violation of KRS 237.130 or 237.132**

- (1) When a report is made to the Kentucky State Police pursuant to KRS 237.130 or KRS 237.132 the Kentucky State Police shall notify the Commonwealth's attorney and the county attorney for the county in which the training was conducted of the report and shall cooperate with them in the investigation and prosecution of the case.
- (2) When a report is made to a Commonwealth's or county attorney pursuant to KRS 237.130 or KRS 237.132 the Commonwealth's or county attorney shall notify the Kentucky State Police of the report and shall cooperate with them in the investigation and prosecution of the case.
- (3) When a report is made to the Department of Criminal Justice training alleging a violation of KRS 237.130 or KRS 237.132 the department shall notify the Commonwealth's attorney and county attorney of the county in which the training took place and shall make a notification of the report to the Kentucky State Police.
- (4) The Kentucky State Police shall make an annual report to the Legislative Research Commission, not later than December 31 of each year, detailing each notice received pursuant to this section detailing:
  - (a) The name of the firearms instructor trainer or certified firearms instructor if that instructor trainer or instructor has been arrested or indicted

as a result of the notification, otherwise the name shall be omitted;

- (b) The precise allegation;
  - (c) Whether the allegation resulted in arrest or indictment;
  - (d) Whether the allegation resulted in a trial, and the results of that trial; and
  - (e) If the defendant was found guilty, the punishment imposed.
- (5) In or appended to the report specified in subsection (4) of this section the Kentucky State Police shall report the number of arrests, indictments, trials, convictions, cases which were dismissed, and cases in which the defendant was found not guilty for failure to report nonreceipt of training and failure to report insufficient training.

**KRS 237.136 Suspension or revocation of certification of firearms instructor trainer or firearms instructor**

- (1) The Department of Criminal Justice Training may suspend or revoke the certification of a firearms instructor trainer or certified firearms instructor who is found, after a hearing held in conformity with the provisions of KRS Chapter 13B to have violated a statute or administrative regulation relating to the concealed deadly weapon training program. The suspension of a certification may be for a period not to exceed five (5) years and the department may require the person whose certification is suspended to successfully complete the level of course instruction for the certification which was suspended prior to reinstating the certification.
- (2) The department shall deny recertification to a person whose certification has been revoked pursuant to this section.
- (3) The department shall deny recertification to a person whose certification has been suspended for the remaining period of suspension.
- (4) The department may temporarily suspend the certification of a firearms instructor trainer or certified firearms instructor prior to holding a hearing pursuant to KRS Chapter 13B if the department believes that the safety of the public requires such an action. In the event that a certification is temporarily suspended prior to holding a hearing pursuant to KRS Chapter 13B the department shall hold a Chapter 13B hearing not later than thirty (30) days from the date of the temporary suspension unless the defendant requests an extension for a time certain. If the defendant requests an extension for a time certain then the certification shall remain suspended until the conclusion of the hearing.
- (5) A firearms instructor trainer or certified firearms instructor who is the subject of an investigation shall be notified as required by KRS Chapter 13B and shall

have, at all stages in the proceeding, the right to be represented by counsel.

**KRS CHAPTER 244  
ALCOHOLIC BEVERAGES  
(Selected Provision)**

**KRS 244.125    Prohibition against possession of a loaded firearm in a room where alcoholic beverages are sold by the drink**

- (1) Except as provided in subsection (3) of this section, no person shall be in possession of a loaded, as defined in KRS 237.060, firearm while actually within the room where alcoholic beverages are being sold by the drink of a building on premises licensed to sell distilled spirits and wine at retail by the drink for consumption on the licensed premises pursuant to KRS Chapter 243.
- (2) This section shall not apply to the owner, manager, or employee of licensed premises, law enforcement officers, or special local peace officers commissioned pursuant to KRS 61.360.
- (3) This section shall not apply to a bona fide restaurant open to the general public having dining facilities for not less than fifty (50) persons and which receives at least fifty percent (50%) of its gross annual income from the dining facilities by the sale of food.
- (4) Nothing in this section shall be construed as permitting the carrying of a concealed deadly weapon in violation of KRS 527.020.
- (5) Any firearm possessed in violation of this section shall be subject to forfeiture and shall be disposed of pursuant to KRS 237.090.

**KRS CHAPTER 500  
GENERAL PROVISIONS  
(Selected Sections)**

**KRS 500.080    Definitions for Kentucky Penal Code**

As used in the Kentucky Penal Code, unless the context otherwise requires:

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- (3) **"Dangerous instrument"** means any instrument, including parts of the human body when a serious physical injury is a direct result of the use of that part of the human body, article, or substance which, under the circumstances in which it is used, attempted to be used, or threatened to be used, is readily capable of causing death or serious physical injury;

**Video Lines 59-71**

- (4) **"Deadly weapon"** means any of the following:
  - (a) A weapon of mass destruction;
  - (b) Any weapon from which a shot, readily capable of producing death or other serious physical injury, may be discharged;
  - (c) Any knife other than an ordinary pocket knife or hunting knife;
  - (d) Billy, nightstick, or club;
  - (e) Blackjack or slapjack;
  - (f) Nunchaku karate sticks;
  - (g) Shuriken or death star; or
  - (h) Artificial knuckles made from metal, plastic, or other similar hard material;

\* \* \* \* \*

- (13) **"Physical injury"** means substantial physical pain or any impairment of physical condition;

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- (15) **"Serious physical injury"** means physical injury which creates a substantial risk of death, or which causes serious and prolonged disfigurement, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily organ;

\* \* \* \* \*

**Video Lines 82-93**

- (18) **"Weapon of mass destruction"** means:
  - (a) Any destructive device as defined in KRS 237.030, but not fireworks as defined in KRS 227.700;
  - (b) Any weapon that is designed or intended to cause death or serious physical injury through the release, dissemination, or impact of toxic or poisonous chemicals or their precursors;
  - (c) Any weapon involving a disease organism; or
  - (d) Any weapon that is designed to release radiation or radioactivity at a level dangerous to human life.

**KRS CHAPTER 503  
GENERAL PRINCIPLES OF JUSTIFICATION**

**KRS 503.010 Definitions**

The following definitions apply in this chapter unless the context otherwise requires:

- (1) **"Deadly physical force"** means force which is used with the purpose of causing death or serious physical injury or which the defendant knows to create a substantial risk of causing death or serious physical injury.
- 13 (2) **"Dwelling"** means any building or structure, though movable or temporary which is for the time being either totally or partially the defendant's home or place of lodging.
- (3) **"Imminent"** means impending danger, and, in the context of domestic violence and abuse as defined by KRS 403.720, belief that danger is imminent can be inferred from a past pattern of repeated serious abuse.
- 4 (4) **"Physical force"** means force used upon or directed toward the body of another person and includes confinement.

26 **KRS 503.020 Justification -- a defense**

In any prosecution for an offense, justification, as defined in this chapter, is a defense.

**KRS 503.030 Choice of evils**

- (1) Unless inconsistent with the ensuing sections of this code defining justifiable use of physical force or with some other provisions of law, conduct which would otherwise constitute an offense is justifiable when the defendant believes it to be necessary to avoid an imminent public or private injury greater than the injury which is sought to be prevented by the statute defining the offense charged, except that no justification can exist under this section for an intentional homicide.
- (2) When the defendant believes that conduct which would otherwise constitute an offense is necessary for the purpose described in subsection (1), but is wanton or reckless in having such belief, or when the defendant is wanton or reckless in bringing about a situation requiring the conduct described in subsection (1), the justification afforded by this section is unavailable in a prosecution for any offense for which wantonness or recklessness, as the case may be, suffices to establish culpability.

**KRS 503.040 Execution of public duty**

- (1) Unless inconsistent with the ensuing sections of this code defining justifiable use of physical force or with some other provisions of law, conduct which would otherwise constitute an offense is justifiable when it

is required or authorized by a provision of law imposing a public duty or by a judicial decree.

- (2) The justification afforded by subsection (1) applies when:
  - (a) The defendant believes his conduct to be required or authorized by the judgment or direction of a competent court or tribunal or in the lawful execution of legal process, notwithstanding lack of jurisdiction of the court or defect in the legal process; or
  - (b) The defendant believes his conduct to be required or authorized to assist a public officer in the performance of his duties, notwithstanding that the officer exceeded his legal authority.

76 **KRS 503.050 Use of physical force in self-protection**

- (1) The use of physical force by a defendant upon another person is justifiable when the defendant believes that such force is necessary to protect himself against the use or imminent use of unlawful physical force by the other person.
- (2) The use of deadly physical force by a defendant upon another person is justifiable under subsection (1) only when the defendant believes that such force is necessary to protect himself against death, serious physical injury, kidnapping, or sexual intercourse compelled by force or threat.
- (3) Any evidence presented by the defendant to establish the existence of a prior act or acts of domestic violence and abuse as defined in KRS 403.720 by the person against whom the defendant is charged with employing physical force shall be admissible under this section.

97 **KRS 503.060 Improper use of physical force in self-protection**

NOTWITHSTANDING THE PROVISIONS OF KRS 503.050, THE USE OF PHYSICAL FORCE BY A DEFENDANT UPON ANOTHER PERSON IS NOT JUSTIFIABLE WHEN:

- (1) The defendant is resisting an arrest by a peace officer, recognized to be acting under color of official authority and using no more force than reasonably necessary to effect the arrest, although the arrest is unlawful; or
- (2) The defendant, with the intention of causing death or serious physical injury to the other person, provokes the use of physical force by such other person; or
- (3) The defendant was the initial aggressor, except that his use of physical force upon the other person under this circumstance is justifiable when:
  - (a) His initial physical force was non-deadly and the force returned by the other is such that he



believes himself to be in imminent danger of death or serious physical injury; or

- (b) He withdraws from the encounter and effectively communicates to the other person his intent to do so and the latter nevertheless continues or threatens the use of unlawful physical force.

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#### **KRS 503.070 Protection of another**

- (1) The use of physical force by a defendant upon another person is justifiable when:
  - (a) The defendant believes that such force is necessary to protect a third person against the use or imminent use of unlawful physical force by the other person; and
  - (b) Under the circumstances as the defendant believes them to be, the person whom he seeks to protect would himself have been justified under KRS 503.050 and 503.060 in using such protection.
- (2) The use of deadly physical force by a defendant upon another person is justifiable when:
  - (a) The defendant believes that such force is necessary to protect a third person against imminent death, serious physical injury, kidnapping or sexual intercourse compelled by force or threat; and
  - (b) Under the circumstances as they actually exist, the person whom he seeks to protect would himself have been justified under KRS 503.050 and 503.060 in using such protection.

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#### **KRS 503.080 Protection of property**

- (1) The use of physical force by a defendant upon another person is justifiable when the defendant believes that such force is immediately necessary to prevent:
  - (a) The commission of criminal trespass or burglary in a dwelling, building or upon real property in his possession or in the possession of another person for whose protection he acts; or
  - (b) Theft, criminal mischief, or any trespassory taking of tangible, movable property in his possession or in the possession of another person for whose protection he acts.
- (2) The use of deadly physical force by a defendant upon another person is justifiable under subsection (1) only when the defendant believes that the person against whom such force is used is:
  - (a) Attempting to dispossess him of his dwelling otherwise than under a claim of right to its possession; or
  - (b) Committing or attempting to commit a burglary of such dwelling; or
  - (c) Committing or attempting to commit arson of a dwelling or other building in his possession.

#### **KRS 503.090 Use of physical force in law enforcement**

- (1) The use of physical force by a defendant upon another person is justifiable when the defendant, acting under official authority, is making or assisting in making an arrest, and he:
  - (a) Believes that such force is necessary to effect the arrest;
  - (b) Makes known the purpose of the arrest or believes that it is otherwise known or cannot reasonably be made known to the person to be arrested; and
  - (c) Believes the arrest to be lawful.
- (2) The use of deadly physical force by a defendant upon another person is justifiable under subsection (1) only when:
  - (a) The defendant, in effecting the arrest, is authorized to act as a peace officer; and
  - (b) The arrest is for a felony involving the use or threatened use of physical force likely to cause death or serious physical injury; and
  - (c) The defendant believes that the person to be arrested is likely to endanger human life unless apprehended without delay.
- (3) The use of physical force, including deadly physical force, by a defendant upon another person is justifiable when the defendant is preventing the escape of an arrested person and when the force could justifiably have been used to effect the arrest under which the person is in custody, except that a guard or other person authorized to act as a peace officer is justified in using any force, including deadly force, which he believes to be necessary to prevent the escape of a person from jail, prison, or other institution for the detention of persons charged with or convicted of a crime.

#### **KRS 503.100 Prevention of a suicide or crime**

- (1) The use of physical force by a defendant upon another person is justifiable when the defendant believes that such force is immediately necessary to prevent such other person from:
  - (a) Committing suicide or inflicting serious physical injury upon himself; or
  - (b) Committing a crime involving or threatening serious physical injury to person, substantial damage to or loss of property, or any other violent conduct.
- (2) The use of deadly physical force by a defendant upon another person is justifiable under subsection (1)(b) only when the defendant believes that the person whom he seeks to prevent from committing a crime is likely to endanger human life.

- (3) The limitations imposed on the justifiable use of force in self-protection by KRS 503.050 and 503.060, for the protection of others by KRS 503.070, for the protection of property by KRS 503.080, and for the effectuation of an arrest or the prevention of an escape by KRS 503.090 apply notwithstanding the criminality of the conduct against which such force is used.

**KRS 503.110 Use of force by person with responsibility for care, discipline or safety of others**

- (1) The use of physical force by a defendant upon another person is justifiable when the defendant is a parent, guardian or other person entrusted with the care and supervision of a minor or an incompetent person or when the defendant is a teacher or other person entrusted with the care and supervision of a minor, for a special purpose, and:
- (a) The defendant believes that the force used is necessary to promote the welfare of a minor or mentally disabled person or, if the defendant's responsibility for the minor or mentally disabled person is for a special purpose, to further that special purpose or maintain reasonable discipline in a school, class or other group; and
  - (b) The force that is used is not designed to cause or known to create a substantial risk of causing death, serious physical injury, disfigurement, extreme pain, or extreme mental distress.
- (2) The use physical force by a defendant upon another person is justifiable when the defendant is a warden or other authorized official of a correctional institution, and
- (a) The defendant believes that the force used is necessary for the purpose of enforcing the lawful rules of the institution;
  - (b) The degree of force used is not forbidden by any statute governing the administration of the institution; and
  - (c) If deadly force is used, its use is otherwise justifiable under this code.
- (3) The use of physical force by a defendant upon another person is justifiable when the defendant is a person responsible for the operation of or the maintenance of order in a vehicle or other carrier of passengers and the defendant believes that such force is necessary to prevent interference with its operation or to maintain order in the vehicle or other carrier, except that deadly physical force may be used only when the defendant believes it necessary to prevent death or serious physical injury.
- (4) The use of physical force by a defendant upon another person is justifiable when the defendant is a doctor or other therapist or a person assisting him at his direction, and:

The force is used for the purpose of administering a recognized form of treatment which the defendant

believes to be adapted to promoting the physical or mental health of the patient; and

- (b) The treatment is administered with the consent of the patient or, if the patient is a minor or a mentally disabled person, with the consent of the parent, guardian, or other person legally competent to consent on his behalf, or the treatment is administered in an emergency when the defendant believes that no one competent to consent can be consulted and that a reasonable person, wishing to safeguard the welfare of the patient, would consent.

**KRS 503.120 Justification--general provisions**

- (1) When the defendant believes that the use of force upon or toward the person of another is necessary for any of the purposes for which such belief would establish a justification under KRS 503.050 to 503.110 but the defendant is wanton or reckless in believing the use of any force, or the degree of force used, to be necessary or in acquiring or failing to acquire any knowledge or belief which is material to the justifiability of his use of force, the justification afforded by those sections is unavailable in a prosecution for an offense for which wantonness or recklessness, as the case may be, suffices to establish culpability.
- (2) When the defendant is justified under KRS 503.050 to 503.110 in using force upon or toward the person of another, but he wantonly or recklessly injures or creates a risk of injury to innocent persons, the justification afforded by those sections is unavailable in a prosecution for an offense involving wantonness or recklessness toward innocent persons.

**KRS CHAPTER 527**  
**OFFENSES RELATING TO FIREARMS AND**  
**WEAPONS**

**KRS 527.010 Definitions for chapter**

The following definitions apply in this chapter unless the context otherwise requires:

- (1) **"Booby trap device"** shall have the same meaning as set forth in KRS 237.030.
- (2) **"Deface"** means to remove, deface, cover, alter, or destroy the manufacturer's serial number or any other distinguishing number or identification mark.
- (3) **"Destructive device"** shall have the same meaning as set forth in KRS 237.030.
- (4) **"Firearm"** means any weapon which will expel a projectile by the action of an explosive.
- (5) **"Handgun"** means any pistol or revolver originally designed to be fired by the use of a single hand, or any other firearm originally designed to be fired by the use of a single hand.

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**KRS 527.020 Carrying a concealed deadly weapon**

- (1) A person is guilty of carrying a concealed weapon when he carries concealed a firearm or other deadly weapon on or about his person.
- (2) Peace officers, when necessary for their protection in the discharge of their official duties; United States mail carriers when actually engaged in their duties; and agents and messengers of express companies, when necessary for their protection in the discharge of their official duties, may carry concealed weapons on or about their person.
- (3) Policemen directly employed by state, county, city or urban county governments may carry concealed deadly weapons on or about their person at all times within the Commonwealth of Kentucky, when expressly authorized to do so by the government employing the officer.
- (4) Persons, except those specified in subsection (5) of this section, licensed to carry a concealed deadly weapon pursuant to KRS 237.110 may carry a firearm or other concealed deadly weapon on or about their persons at all times within the Commonwealth of Kentucky, if the firearm or concealed deadly weapon is carried in conformity with the requirements of that section. Unless otherwise specifically provided by the Kentucky Revised Statutes or applicable federal law, no criminal penalty shall attach to carrying a concealed firearm or other deadly weapon with a permit at any location at which an unconcealed firearm or other deadly weapon may be constitutionally carried. No person or organization, public or private shall prohibit a person licensed to carry a concealed deadly weapon from possessing a firearm, ammunition, or both, or other deadly weapon in his or her vehicle in

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compliance with the provisions of KRS 237.110 and 237.115. Any attempt by a person or organization, public or private, to violate the provisions of this subsection may be the subject of an action for appropriate relief or for damages in a Circuit Court or District Court of competent jurisdiction.

- (5) The following persons, if they hold a license to carry a concealed deadly weapon pursuant to KRS 237.110, may carry a firearm or other concealed deadly weapon on or about their persons at all times and at all locations within the Commonwealth of Kentucky, without limitation:
  - (a) A Commonwealth's attorney or assistant Commonwealth's attorney;
  - (b) A county attorney or assistant county attorney;
  - (c) A justice or judge of the Court of Justice; and
  - (d) A retired or senior status justice or judge of the Court of Justice.

A person specified in this section who is issued a concealed deadly weapon license shall be issued a license which bears on its face the statement that it is valid at all locations within the Commonwealth of Kentucky and may have such other identifying characteristics as determined by the Department of State Police.

- (6) (a) Except provided in this subsection, the following persons may carry concealed deadly weapons on or about their person at all times and at all locations within the Commonwealth of Kentucky:
  1. An elected sheriff and full-time and part-time deputy sheriffs certified pursuant to KRS 15.380 to 15.404 when expressly authorized to do so by the unit of government employing the officer;
  2. An elected jailer and a deputy jailer who has successfully completed Department of Corrections basic training and maintains his or her current in-service training when expressly authorized to do so by the jailer; and
  3. The department head or any employee of a corrections department in any jurisdiction where the office of elected jailer has been merged with the office of sheriff who has successfully completed Department of Corrections basic training and maintains his or her current in-service training when expressly authorized to do so by the unit of government by which he or she is employed.
 (b) The provisions of this subsection shall not authorize a person specified in this subsection to carry a concealed deadly weapon in a detention facility as defined in KRS 520.010 or on the premises of a detention facility without the permission of the warden, jailer, or other person in charge of the facility, or the permission of a person authorized by the warden, jailer, or other person in charge of the detention facility to give such permission. As used in this section, "detention facility" does not include courtrooms, facilities, or other premises used by the Court of Justice or administered by the Administrative Office of the Courts.

- (7) A full-time paid peace officer of a government agency from another state or territory of the United States or an elected sheriff from another territory of the United States may carry a concealed deadly weapon in Kentucky, on or off duty, if the other state or territory accords a Kentucky full-time paid peace officer and a Kentucky elected sheriff the same rights by law. If the other state or territory limits a Kentucky full-time paid peace officer or elected sheriff to carrying a concealed deadly weapon while on duty, then that same restriction shall apply to a full-time paid peace officer or elected sheriff from that state or territory.
- (8) A firearm or other deadly weapon shall not be deemed concealed on or about the person if it is located in a glove compartment, regularly installed in a motor vehicle by its manufacturer regardless of whether said compartment is locked, unlocked, or does not have a locking mechanism. No person or organization, public or private, shall prohibit a person from keeping a firearm or ammunition, or both, or other deadly weapon in a glove compartment of a vehicle in accordance with the provisions of this subsection. Any attempt by a person or organization, public or private, to violate the provisions of this subsection may be the subject of an action for appropriate relief or for damages in a Circuit Court or District Court of competent jurisdiction.
- 23 (9) Carrying a concealed weapon is a Class A misdemeanor unless the defendant has been previously convicted of a felony in which a deadly weapon was possessed, used or displayed in which case it is a Class D felony.

#### **KRS 527.030 Defacing a firearm**

- (1) A person is guilty of defacing a firearm when he intentionally defaces a firearm.
- (2) Defacing a firearm is a Class A misdemeanor

#### **KRS 527.040 Possession of a firearm by a convicted felon**

- (1) A person is guilty of possession of a firearm by a convicted felon when he possesses, manufactures, or transports a firearm when he has been convicted of a felony, as defined by the laws of the jurisdiction in which he was convicted, in any state or federal court and has not:
- (a) Been granted a full pardon by the Governor or by the President of the United States; or
  - (b) Been granted relief by the United States Secretary of the Treasury pursuant to the Federal Gun Control Act of 1968, as amended.
- (2) Possession of a firearm by a convicted felon is a Class D felony unless the firearm possessed is a handgun in which case it is a Class C felony.

- (3) The provisions of this section shall apply to any youthful offender convicted of a felony offense under the laws of this Commonwealth. The exceptions contained in KRS 527.100 prohibiting possession of a handgun by a minor shall not apply to this section.
- (4) The provisions of this section with respect to handguns, shall apply only to persons convicted after January 1, 1975, and with respect to other firearms, to persons convicted after July 15, 1994.

#### **KRS 527.050 Possession of a defaced firearm**

- (1) A person is guilty of possession of a defaced firearm when he knowingly possesses a defaced firearm unless he makes a report to the police or other appropriate government agency of such possession prior to arrest or authorization of a warrant by a court.
- (2) Possession of a defaced firearm is a Class A misdemeanor.

#### **KRS 527.060 Forfeiture**

Upon the conviction of any person for the violation of any law of this Commonwealth in which a deadly weapon was used, displayed or unlawfully possessed by such person, the court shall order the weapon forfeited to the state and sold, destroyed or otherwise disposed of in accordance with KRS 500.090.

#### **KRS 527.070 Unlawful possession of a weapon on school property**

- (1) A person is guilty of unlawful possession of a weapon on school property when he knowingly deposits, possesses, or carries, whether openly or concealed, for purposes other than instructional or school-sanctioned ceremonial purposes, or the purposes permitted in subsection (3) of this section, any firearm or other deadly weapon, destructive device, or booby trap device in any public or private school building or bus, on any public or private school campus, grounds, recreation area, athletic field or any other property owned, used, or operated by any board of education, school, board of trustees, regents, or directors for the administration of any public or private educational institution. The provisions of this section shall not apply to institutions of postsecondary or higher education.
- (2) Each chief administrator of a public or private school shall display about the school in prominent locations, including, but not limited to, sports arenas, gymnasiums, stadiums, and cafeterias, a sign at least six (6) inches high and fourteen (14) inches wide stating:

**UNLAWFUL POSSESSION OF A WEAPON ON SCHOOL PROPERTY IN KENTUCKY IS A FELONY PUNISHABLE BY A MAXIMUM OF FIVE (5) YEARS IN PRISON AND A TEN THOUSAND DOLLAR (\$10,000) FINE.**

Failure to post the sign shall not relieve any person of liability under this section.

- (3) The provisions of this section prohibiting the unlawful possession of a weapon on school property shall not apply to:
- (a) An adult who possesses a firearm, if the firearm is contained within a vehicle operated by the adult and is not removed from the vehicle, except for a purpose permitted herein, or brandished by the adult, or by any other person acting with expressed or implied consent of the adult, while the vehicle is on school property.
  - (b) Any pupils who are members of the reserve officers training corps or pupils enrolled in a course of instruction or members of a school club or team, to the extent they are required to carry arms or weapons in the discharge of their official class or team duties;
  - (c) Any peace officer or police officer authorized to carry a concealed weapon pursuant to KRS 527.020;
  - (d) Persons employed by the Armed Forces of the United States or members of the National Guard or militia when required in the discharge of their official duties to carry arms or weapons;
  - (e) Civil officers of the United States in the discharge of their official duties. Nothing in this section shall be construed as to allow any person to carry a concealed weapon into a public or private elementary or secondary school building;
  - (f) Any other person, including, but not limited to, exhibitors of historical displays, who have been authorized to carry a firearm by the board of education or board of trustees of the public or private institution;
  - (g) A person hunting during the lawful hunting season on lands owned by any public or private educational institution and designated as open to hunting by the board of education or board of trustees of the educational institution;
  - (h) A person possessing unloaded hunting weapons while traversing the grounds of any public or private educational institution for the purpose of gaining access to public or private lands open to hunting with the intent to hunt on the public or private lands, unless the lands of the educational institution are posted prohibiting the entry; or
  - (i) A person possessing guns or knives when conducting or attending a "gun and knife show" when the program has been approved by the

board of education or board of trustees of the educational institution.

- (4) Unlawful possession of a weapon on school property is a Class D felony.

**KRS 527.080 Using restricted ammunition during the commission of a crime**

- (1) A person is guilty of using restricted ammunition during the commission of a crime when he commits any felony offense under this code and is armed at the time of the commission of the offense or in the immediate flight therefrom with a firearm loaded, as defined in KRS 237.060, with armor-piercing ammunition as defined in KRS 237.060 or flanged ammunition as defined in KRS 237.060.
- (2) Using restricted ammunition during the commission of a crime is:
  - (a) A Class D felony if no shot is fired;
  - (b) A Class C felony if a shot is fired and no person is killed or wounded thereby;
  - (c) A class B felony if a shot is fired and a person other than the defendant or an accomplice of the defendant is wounded by the shot; and
  - (d) A Class A felony if a shot is fired and a person other than the defendant or an accomplice of the defendant is killed by the shot.
- (3) The provisions of this section are intended to be a separate offense from the underlying crime, which shall be punished separately. If a person is convicted of this offense, his sentence shall be served consecutively to the sentence for the underlying offense.
- (4) The provisions of this section shall not apply to any person who is justified in acting pursuant to the provisions of KRS Chapter 503.

**KRS 527.100 Possession of a handgun by a minor**

- (1) A person is guilty of possession of a handgun by a minor when, being under the age of eighteen (18) years, he possesses, manufactures, or transports a handgun as defined by KRS 527.010, except when the person is:
  - (a) In attendance at a hunter's safety course or a firearms safety course;
  - (b) Engaging in practice in the use of a firearm, or target shooting at an established firing range, or any other area where the discharge of a firearm is not prohibited;
  - (c) Engaging in an organized competition involving the use of a firearm, or participating in or practicing for a performance by a group organized under Section 501(c)(3) of the Internal Revenue Code or any successor thereto which uses firearms as a part of the performance;

- (d) Hunting or trapping pursuant to a valid license issued to him pursuant to the statutes or administrative regulations of this Commonwealth;
  - (e) Traveling to or from any activity described in paragraphs (a) to (d) of this subsection with any unloaded handgun in his possession;
  - (f) On real property which is under the control of an adult and has the permission of that adult and his parent or legal guardian to possess a handgun; or
  - (g) At his residence and with the permission of his parent or legal guardian possesses a handgun and is justified under the principles of justification set forth in KRS Chapter 503 in using physical force or deadly physical force.
- (2) For the purposes of subsection (1) of this section, a handgun is "loaded" if:
- (a) There is a cartridge in the chamber of the handgun; or
  - (b) There is a cartridge in the cylinder of the handgun, if the handgun is a revolver; or
  - (c) There is a cartridge in the magazine of a semiautomatic handgun, if the magazine is attached to the handgun; or
  - (d) The handgun, and the ammunition for the handgun, are carried on the person of one under the age of eighteen (18) years or are in such close proximity to him that he could readily gain access to the handgun and the ammunition and load the handgun.
- (3) Possession of a handgun by a minor is a Class A misdemeanor for the first offense and a Class D felony for each subsequent offense.

- crime of violence as defined in KRS 439.3401, provides a handgun to that juvenile.
- (3) Unlawfully providing a handgun to a juvenile or permitting a juvenile to possess a handgun is a Class D felony.

**KRS 527.110    Unlawfully providing a handgun to a juvenile or permitting a juvenile to possess a handgun**

- (1) A person is guilty of unlawfully providing a handgun to a juvenile or permitting a juvenile to possess a handgun when he:
- (a) Intentionally, knowingly, or recklessly provides a handgun, with or without remuneration, in violation of KRS 527.040, 527.100, or 600.020 to any person he knows or has reason to believe is under the age of eighteen (18) years; or
  - (b) Is the parent or legal guardian of a juvenile and intentionally, knowingly, or recklessly provides a handgun to the juvenile or permits the juvenile to possess a handgun knowing that there is a substantial risk that the juvenile will use a handgun to commit a felony offense; or, with knowledge that the juvenile has been convicted of a crime of violence as defined in KRS 439.3401 or has been adjudicated a public offender of an offense which would constitute a

## 18 U.S.C. Section 921

(a) As used in this chapter—

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(33)(A) Except as provided in subparagraph (C), the term "misdemeanor crime of domestic violence" means an offense that—

(i) is a misdemeanor under Federal or State law; and

(ii) h  
as, as an element, the use or attempted use of physical force, or the threatened use of a deadly weapon, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent, or guardian of the victim

(B) (i) A person shall not be considered to have been convicted of such an offense for purposes of this chapter, unless—

(I) th  
e person was represented by counsel in the case, or knowingly and intelligently waived the right to counsel in the case; and

(II) in the case of a prosecution for an offense described in this paragraph for which a person was entitled to a jury trial in the jurisdiction in which the case was tried, either

(aa) the case was tried by a jury, or

(bb) the person knowingly and intelligently waived the right to have the case tried by a jury, by guilty plea or otherwise.

(ii) A person shall not be considered to have been convicted of such an offense for purposes of this chapter if the conviction has been expunged or set aside, or is an offense for which the person has been pardoned or has had civil rights restored (if the law of the applicable jurisdiction provides for the loss of civil rights under such an offense) unless the pardon, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms.

## 18 U.S.C., Section 922

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(d) It shall be unlawful for any person to sell or otherwise dispose of any firearm or ammunition to any person knowing or having reasonable cause to believe that such person—

(1) is under indictment for, or has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;

(2) is a fugitive from justice;

(3) is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

(4) has been adjudicated as a mental defective or has been committed to any mental institution;

(5) who, being an alien—

(A) is illegally or unlawfully in the United States; or

(B) except as provided in subsection (y)(2), has been admitted to the United States under a nonimmigrant visa (as that term is defined in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26)));

(6) who has been discharged from the Armed Forces under dishonorable conditions;

(7) who, having been a citizen of the United States, has renounced his citizenship;

(8) is subject to a court order that restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child, except that this paragraph shall only apply to a court order that—

(A) was issued after a hearing of which such person received actual notice, and at which such person had the opportunity to participate; and

(B) (i) includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or

(ii) by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury; or

(9) has been convicted in any court of a misdemeanor crime of domestic violence.

This subsection shall not apply with respect to the sale or disposition of a firearm or ammunition to a licensed importer, licensed manufacturer, licensed dealer, or licensed collector who pursuant to



subsection (b) of section 925 of this chapter is not precluded from dealing in firearms or ammunition, or to a person who has been granted relief from disabilities pursuant to subsection (c) of section 925 of this chapter.

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(g) It shall be unlawful for any person—

- (1) who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;
- (2) who is a fugitive from justice;
- (3) who is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));
- (4) who has been adjudicated as a mental defective or who has been committed to a mental institution;
- (5) who, being an alien—
  - (A) is illegally or unlawfully in the United States; or
  - (B) except as provided in subsection (y)(2), has been admitted to the United States under a nonimmigrant visa (as that term is defined in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26)));
- (6) who has been discharged from the Armed Forces under dishonorable conditions;
- (7) who, having been a citizen of the United States, has renounced his citizenship;
- (8) who is subject to a court order that—
  - (A) was issued after a hearing of which such person received actual notice, and at which such person had an opportunity to participate;
  - (B) restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and
  - (C)
    - (i) includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or
    - (ii) by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury; or

(9) who has been convicted in any court of a misdemeanor crime of domestic violence [*see 18 U.S.C. 921(a)(33) above for definition*],

to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

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(s) (1) Beginning on the date that is 90 days after the date of enactment of this subsection and ending on the day before the date that is 60 months after such date of enactment, it shall be unlawful for any licensed importer, licensed manufacturer, or licensed dealer to sell, deliver, or transfer a handgun (other than the return of a handgun to the person from whom it was received) to an individual who is not licensed under section 923, unless—

(A) after the most recent proposal of such transfer by the transferee—

(i) the transferor has—

- (I) received from the transferee a statement of the transferee containing the information described in paragraph (3);
- (II) verified the identity of the transferee by examining the identification document presented;
- (III) within 1 day after the transferee furnishes the statement, provided notice of the contents of the statement to the chief law enforcement officer of the place of residence of the transferee; and
- (IV) within 1 day after the transferee furnishes the statement, transmitted a copy of the statement to the chief law enforcement officer of the place of residence of the transferee; and

(ii) (I) 5 business days (meaning days on which State offices are open) have elapsed from the date the transferor furnished notice of the contents of the statement to the chief law enforcement officer, during which period the transferor has not received information from the chief law enforcement officer that receipt or possession of the handgun by the transferee would be in

- violation of Federal, State, or local law; or
- (II) the transferor has received notice from the chief law enforcement officer that the officer has no information indicating that receipt or possession of the handgun by the transferee would violate Federal, State, or local law;
- (B) the transferee has presented to the transferor a written statement, issued by the chief law enforcement officer of the place of residence of the transferee during the 10-day period ending on the date of the most recent proposal of such transfer by the transferee, stating that the transferee requires access to a handgun because of a threat to the life of the transferee or of any member of the household of the transferee;
- (C) (i) the transferee has presented to the transferor a permit that—
  - (I) allows the transferee to possess or acquire a handgun; and
  - (II) was issued not more than 5 years earlier by the State in which the transfer is to take place; and
- (ii) the law of the State provides that such a permit is to be issued only after an authorized government official has verified that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of the law;
- (D) the law of the State requires that, before any licensed importer, licensed manufacturer, or licensed dealer completes the transfer of a handgun to an individual who is not licensed under section 923, an authorized government official verify that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of law;
- (E) the Secretary has approved the transfer under section 5812 of the Internal Revenue Code of 1986; or
- (F) on application of the transferor, the Secretary has certified that compliance with subparagraph (A)(i)(III) is impracticable because—
  - (i) the ratio of the number of law enforcement officers of the State in which the transfer is to occur to the number of square miles of land area of the State does not exceed 0.0025;
  - (ii) the business premises of the transferor at which the transfer is to occur are extremely remote in relation to the chief law enforcement officer; and
  - (iii) there is an absence of telecommunications facilities in the geographical area in which the business premises are located.
- (2) A chief law enforcement officer to whom a transferor has provided notice pursuant to paragraph (1)(A)(i)(III) shall make a reasonable effort to ascertain within 5 business days whether receipt or possession would be in violation of the law, including research in whatever State and local recordkeeping systems are available and in a national system designated by the Attorney General.
- (3) The statement referred to in paragraph (1)(A)(i)(I) shall contain only—
  - (A) the name, address, and date of birth appearing on a valid identification document (as defined in section 1028(d)(1)) of the transferee containing a photograph of the transferee and a description of the identification used;
  - (B) a statement that the transferee—
    - (i) is not under indictment for, and has not been convicted in any court of, a crime punishable by imprisonment for a term exceeding 1 year, and has not been convicted in any court of a misdemeanor crime of domestic violence;
    - (ii) is not a fugitive from justice;
  - (iii) is not an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act);
  - (iv) has not been adjudicated as a mental defective or been committed to a mental institution;
  - (v) is not an alien who—
    - (I) is illegally or unlawfully in the United States; or
    - (II) subject to subsection (y)(2), has been admitted to the United States under a nonimmigrant visa (as that term is defined in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26)));
  - (vi) has not been discharged from the Armed Forces under dishonorable conditions; and
  - (vii) is not a person who, having been a citizen of the United States, has renounced such citizenship;
- (C) the date the statement is made; and

- (D) notice that the transferee intends to obtain a handgun from the transferor.
- (4) Any transferor of a handgun who, after such transfer, receives a report from a chief law enforcement officer containing information that receipt or possession of the handgun by the transferee violates Federal, State, or local law shall, within 1 business day after receipt of such request, communicate any information related to the transfer that the transferor has about the transfer and the transferee to—
- (A) the chief law enforcement officer of the place of business of the transferor; and
- (B) the chief law enforcement officer of the place of residence of the transferee.
- (5) Any transferor who receives information, not otherwise available to the public, in a report under this subsection shall not disclose such information except to the transferee, to law enforcement authorities, or pursuant to the direction of a court of law.
- (6) (A) Any transferor who sells, delivers, or otherwise transfers a handgun to a transferee shall retain the copy of the statement of the transferee with respect to the handgun transaction, and shall retain evidence that the transferor has complied with subclauses (III) and (IV) of paragraph (1)(A)(i) with respect to the statement.
- (B) Unless the chief law enforcement officer to whom a statement is transmitted under paragraph (1)(A)(i)(IV) determines that a transaction would violate Federal, State, or local law—
- (i) the officer shall, within 20 business days after the date the transferee made the statement on the basis of which the notice was provided, destroy the statement, any record containing information derived from the statement, and any record created as a result of the notice required by paragraph (1)(A)(i)(III);
- (ii) the information contained in the statement shall not be conveyed to any person except a person who has a need to know in order to carry out this subsection; and
- (iii) the information contained in the statement shall not be used for any purpose other than to carry out this subsection.
- (C) If a chief law enforcement officer determines that an individual is ineligible to receive a handgun and the individual requests the officer to provide the reason for such determination, the officer shall provide such reasons to the individual in writing within 20 business days after receipt of the request.
- (7) A chief law enforcement officer or other person responsible for providing criminal history background information pursuant to this subsection shall not be liable in an action at law for damages—
- (A) for failure to prevent the sale or transfer of a handgun to a person whose receipt or possession of the handgun is unlawful under this section; or
- (B) for preventing such a sale or transfer to a person who may lawfully receive or possess a handgun.
- (8) For purposes of this subsection, the term "chief law enforcement officer" means the chief of police, the sheriff, or an equivalent officer or the designee of any such individual.
- (9) The Secretary shall take necessary actions to ensure that the provisions of this subsection are published and disseminated to licensed dealers, law enforcement officials, and the public.

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